

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

22-cv-3897 (LAK)

STRAIGHTPATH VENTURE PARTNERS LLC, et al.,

Defendants.
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MEMORANDUM AND ORDER
(Corrected)

LEWIS A. KAPLAN, *District Judge*.

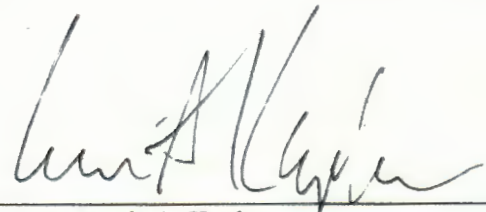
Party-in-interest John T. Sefton, Esq., dated November 11, 2024, moves for leave to file a motion to adopt an alternative plan of distribution and proposed Investors' Plan of Distribution (Dkt 396). The motion is untimely and without merit for all of the reasons set forth in the Receiver's opposition, dated November 13, 2024 (Dkt 397).

Even were the Court to consider Mr. Sefton's motion on the merits, it would deny it. As the SEC has pointed out, where, as here, the Receiver has acted "within the scope of [her] delegated authority" to maintain "the Receivership as a [Qualified Settlement Fund], and has determined that filing the QSF tax return and reserving for payment of potential tax liabilities is in the best interest of the Receivership Estate," her decision is entitled to deference absent evidence that she has acted in bad faith or unreasonably. (Dkt 381 at 6-7.) Mr. Sefton has made no such suggestion, let alone tendered any such evidence. And his suggestion of potentially avoiding QSF tax treatment by causing the Receivership to "'fail[]' the second prong of the 'QSF test' enunciated at 26 C.F.R. § 1.468B-1(c)(2)" as something that "merits exploration" (Dkt 386 at 15-16) mentions (*id.* at 15 n.15), but then ignores, the fact that this suggestion was made previously in the Objection of Individual Defendants to Receiver's Plan. I need not now express any view, one way or the other, concerning whether the suggestion would constitute lawful avoidance or unlawful evasion. Given the circumstances, there is no sufficient reason for second-guessing the Receiver's business judgment on this issue either.

Mr. Sexton's motion (Dkt 396) is DENIED as untimely and, in the alternative, without merit.

SO ORDERED.

Dated: November 13, 2024
Corrected: November 14, 2024



Lewis A. Kaplan
United States District Judge